REMARKS

In the outstanding Office Action Claims 1, 5-7, 11, 16, 19, 53, 56 and 60 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter Applicant regards as the invention. In Claims 1 and 53, the terms "undercut", "generally planar" and "generally" were objected to. In Claims 1 and 11, the terminology "said substantially planar base central portion" was objected to as having insufficient antecedent basis. The recitation "adapted to" in Claims 5-7, 19 and 56 was objected to, while in Claim 16 the phrase "generally planar dome upper surface portion" was objected to.

The phrases "generally planar dome upper surface portion" and "a retaining ridge upper profile which is generally inwardly convex" in Claims 16 and 19, respectively, were objected to.

Claim 53 was further objected to with respect to the phrase "outwardly and upwardly disposed" as well as containing the phrase "adapted to".

The phrase "said generally inwardly and upwardly convex retaining ridge profile" in Claim 60 was objected to as lacking sufficient antecedent basis.

All of the claims were also rejected over art under 35 USC §103.

Claims 1-10, 13-18, 21-27, 33, 36-38, 43-45 and 47-52 were rejected as unpatentable over United States Patent No. 5,377,860 to *Littlejohn et al.* in view of United States Patent No. 5,269,430 to *Schlaupitz et al.*

Claims 11 and 12 were rejected over *Littlejohn et al.* '860 in further view of *Schlaupitz et al.* '430 in still further view of United States Patent No. 5,427,266 to *Yun.*

Claims 19, 20, 28-32, 34-35, 53-69, 74-76 and 78-83 were rejected as unpatentable over *Littlejohn et al.* '860, *Schlaupitz et al.* '430 in further view of United States Patent No. 4,700,842 to *Grusin.*

Claims 41 and 42 were rejected over *Littlejohn et al.* '860, *Schlaupitz et al.* '430 in further view of *Littlejohn et al.*, United States Patent No. 6,440,509. The '509 patent is not believed prior art, but in any event, this rejection is believed overcome by the amendments to the claims as discussed further below.

Claim 46 was rejected over *Littlejohn et al.* '860, *Schlaupitz et al.* '430 in view of United States Patent No. 4,505,962 to *Lu*.

Claims 70 and 71 were rejected over *Littlejohn et al.* '860, *Schlaupitz et al.* '430, *Grusin* '842 and United States Patent No. 4,911,978 to *Tsubone et al.*

Claims 72 and 73 were rejected over *Littlejohn et al.* '860, *Schlaupitz et al.* '430, *Grusin* '842 and *Littlejohn et al.* '509.

Finally, Claim 77 was rejected over *Littlejohn et al.* '860, *Schlaupitz et al.* '430, *Grusin* '842 and *Lu* '962.

As amended, this application is believed in condition for allowance. The art does not suggest a container with a sealing recess and an internal retaining shelf of significant length as claimed in Claim 1, nor does the art suggest the container of Claim 53 which requires a sidewall base sealing portion and an inwardly convex annular sidewall stacking recess.

Claims 1 and 53, as amended, are representative:

1. A sealable food container comprising:

(a) a base serving member having a substantially planar base central portion, a base sidewall extending upwardly and outwardly therefrom and a base outer flange portion extending outwardly from said base sidewall;

said base sidewall defining a sealing recess disposed between said substantially planar base central portion of said base serving member and said base outer flange portion, the recess being provided with (i) an

inwardly projecting base stop ridge adjacent an upper extremity of the recess as well as (ii) a laterally extending, internal retaining shelf adjacent a lower extremity of the recess; and (iii) between the base stop ridge and shelf, an inwardly facing annular sealing surface at an outer wall of the sealing recess;

(b) a sealing lid provided with a dome portion and a flexible lid sidewall extending downwardly from said dome portion as well as a lid flange portion extending outwardly with respect to said downwardly extending lid sidewall;

said lid flange portion including at its inner periphery a lid sealing portion with (i) an outwardly facing annular lid sealing surface extending upwardly with respect to said downwardly extending lid sidewall of said sealing lid and (ii) said lid sealing portion further defining a lid stop ridge;

wherein said base serving member and said sealing lid are configured such that when said sealing lid is forced downwardly on said base serving member said sealing lid is secured to said base serving member by cooperation of said base stop ridge of said base serving member and said lid stop ridge of said sealing lid; wherein said laterally extending retaining shelf of said base serving member extends outwardly over a base sidewall shelf width of at least about 0.5% of the characteristic diameter of said base serving member.

53. A sealable food container comprising:

(a) a base serving member having a substantially planar base central portion, a base sidewall extending upwardly and outwardly therefrom and a base outer flange portion extending outwardly from said base sidewall;

said base serving member including (i) a base sealing portion defined by said base sidewall, the base sealing portion of the sidewall being outwardly

and upwardly disposed with respect to said substantially planar base central portion as well as (ii) an inwardly convex annular sidewall stacking recess at a lower portion of said base sidewall; and

(b) a sealing lid provided with a dome portion having a generally planar upper lid surface and a flexible lid sidewall extending downwardly from said dome portion;

said sealing lid defining (i) an annular lid sealing portion and (ii) being provided with a plurality of outwardly convex flutes in said flexible lid sidewall projecting inwardly at their upper portions to define an upper retaining ridge profile which is generally inwardly disposed toward the center of the dome with respect to said flexible lid sidewall, the retaining ridge profile also being configured so that it is inwardly and upwardly convex;

wherein said base serving member and said sealing lid are configured such that when said sealing lid is forced downwardly on said base serving member said annular lid sealing portion of said sealing lid cooperates with the base sealing portion of said serving member to secure said sealing lid to said serving base member and wherein said inwardly convex annular sidewall stacking recess at the lower portion of the sidewall of said base serving member is configured to engage said inwardly and upwardly convex retaining ridge profile of said sealing lid to render a plurality of said sealable food containers securely stackable with one another.

Support for the amendments is seen in the drawings, particularly **Figure 7** and the text as filed, particularly at pp. 16-20. For example, the new language in Claim 53 calling for an annular stacking recess is found on page 19, line 23.

Littlejohn et al. '860 and *Schlaupitz et al.* '430 do not disclose a sidewall-engaged container ensemble as claimed in Claim 1. Both references disclose brim-sealing containers and neither discloses an internal retaining shelf. The internal shelf is of significant lateral

extent; at least 0.5% with respect to the diameter of the base. The lid may thus be conveniently and easily positioned with respect to the base without the need for brim features. The container of the invention may thus be configured to be more servingware-like and may include, for example, an arcuate outer flange for convenient handling. The frustal geometry of Claim 11 is thus rendered more convenient.

It is clear that *Littlejohn et al.* '860 is concerned with a brim seal, as is seen from **Figures 9** and **10** and the discussion at the bottom of Column 8 and the top of Column 9 thereof. *Schlaupitz et al.* '430 has no inward facing sealing surface and no internal shelf. The combination of Claim 1 is accordingly not believed remotely suggested. In this respect, laterally extending section **82** is clearly external to the sidewall and configured so that the lid is "pulled" into place in *Schlaupitz et al.* '430.

Claim 53 of the present application now more clearly distinguishes over the art such as *Grusin* '842 which shows beveled portions **24a**, **24b**. The geometry illustrated is not annular and thus does not secure a stack in all directions as is the case with the cooperating annular geometry claimed. Further, the bottom-beveled geometry of *Grusin* '842 has the disadvantage that the container is rendered less stable. *See* Col. 3, lines 5-15 of *Grusin* '842. The claimed sidewall stacking recess geometry does not have this drawback.

The foregoing amendments are believed to attend to all of the §112, second paragraph objections; in this regard the Examiner is invited to call undersigned Counsel at the number listed below if there are any outstanding issues.

The dependent claims all include by implication the limitations of Claims 1 or 53 and are thus believed most clearly allowable; for example, the frustal geometry of Claim 11 is not remotely suggested in the art.

This response is being filed with a *Petition* and fee for a two-month *Extension of Time*. If any further extensions or fees are required, please charge our Deposit Account No. 50-0935.

Respectfully submitted,

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Annotated Sheet Showing Change

FIG. 5

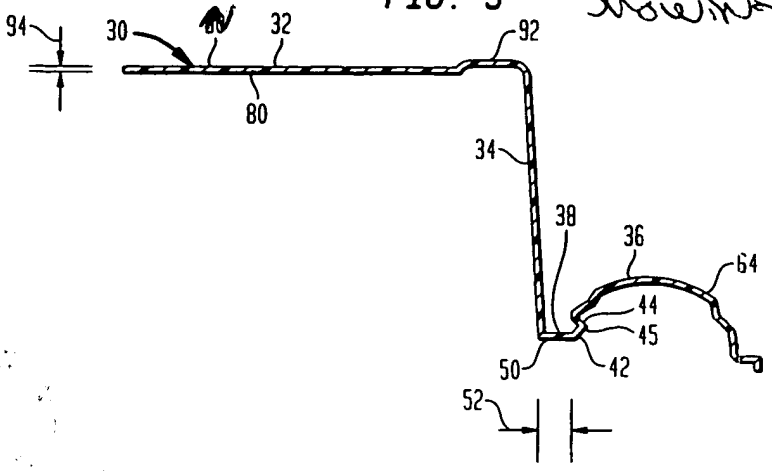


FIG. 6

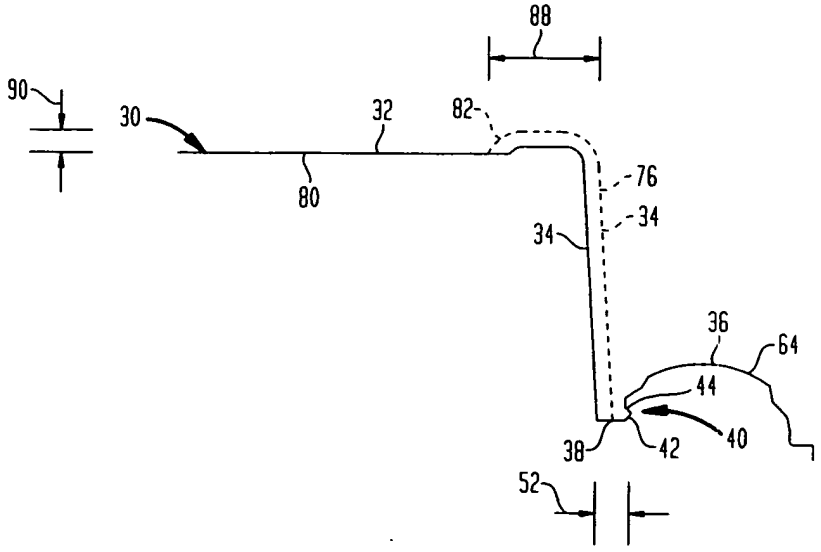
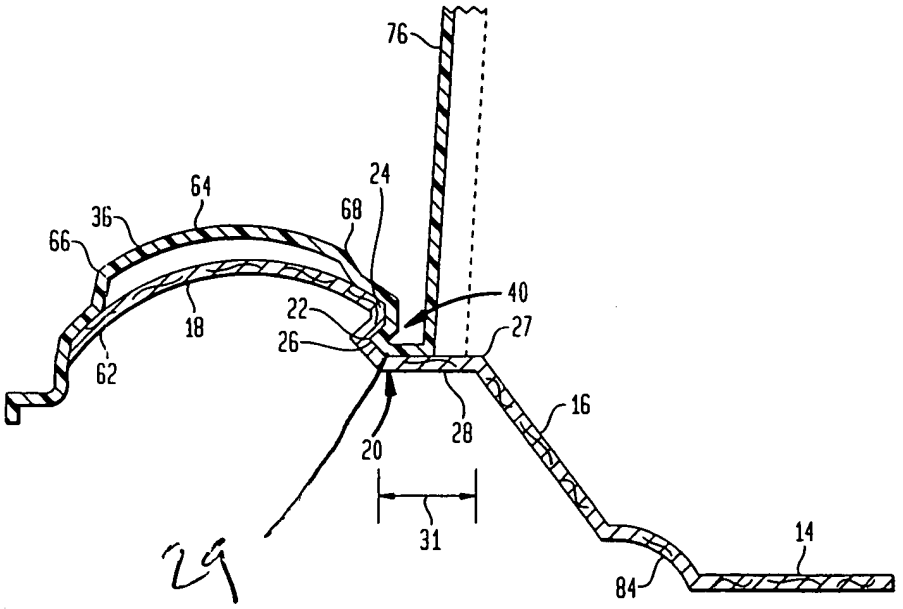


FIG. 7



Annotated Sheet Showing Changes